

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

FILED
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U.S. DISTRICT COURT
DISTRICT OF MASS.

**CHARLES J. SENIOR, NORMAN FAHY,
RONALD D. PHIPPS, RAYMOND W.
POSTMA, THOMAS G. HIRL and UNITED
STEELWORKERS OF AMERICA,
LOCAL 12004,**

* * * *

Plaintiffs

Civil Action No. 04-10160-EFH

Defendants.

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DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56(b), Defendants NSTAR Electric and Gas Corporation and Commonwealth Gas Company (collectively referred to as “Defendants”) move that summary judgment be entered in their favor on all counts of Plaintiffs’ Complaint. The grounds for this motion, as set forth in the memorandum of law submitted herewith, and based on the Statement of Undisputed, Material Facts Submitted by NSTAR Electric and Gas Corporation and Commonwealth Gas Company Pursuant to Local Rule 56.1, also submitted herewith, are that Plaintiffs’ claims, based on the modification of retiree health benefits effective April 1, 2003, are identical to claims raised in Utility Workers, Local 369 v. NSTAR Electric and Gas Corp., 317 F. Supp.2d 69 (D. Mass. 2004), in which this Court entered summary judgment for NSTAR.

For all the above reasons, NSTAR's motion should be allowed, judgment entered in
NSTAR's favor, and Plaintiffs' Amended Complaint dismissed, with prejudice.

CERTIFICATE

I certify that I have discussed the foregoing motion with Plaintiffs' counsel in an effort to resolve the underlying issues.

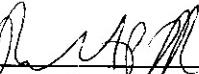
Respectfully submitted,

NSTAR ELECTRIC AND GAS CORPORATION
and COMMONWEALTH GAS COMPANY,

By their Attorneys,

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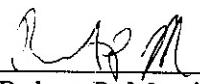
By:


Keith B. Muntyan
B.B.O. #361380
Robert P. Morris
B.B.O. #546052

Dated: March 4, 2005

CERTIFICATE OF SERVICE

I, Robert P. Morris, certify that on March 4, 2005, I caused to be served a copy of the within pleading by hand on counsel for Plaintiffs, Warren H. Pyle, Pyle, Rome, Lichten, Ehrenberg & Liss-Riordan, P.C., 18 Tremont Street, Suite 500, Boston, MA 02108.


Robert P. Morris